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# HOUSE BILL No. 1282

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-1-6-2; IC 36-2-11-16; IC 36-3-7-5.

**Synopsis:** Municipal liens and recording. Provides that when a condition exists on real property that violates a local ordinance and is cleaned up by the local unit, a lien attaches to the property for the cost of the cleanup, and the lien is recorded. Provides that a bill for cleanup related to a violation of a local ordinance is delinquent 30 days after the date of issuance of the bill. Provides procedures for a municipal corporation to follow relating to the collection of fees and penalties, and recording and release of liens. Provides that if a county recorder records a copy of a mortgage or an instrument, the copy has the same effect as if the original document had been recorded. Provides that liens for taxes levied by a consolidated city are perfected when evidenced on the tax duplicate.

**Effective:** July 1, 2005.

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**Foley, Harris T**

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January 11, 2005, read first time and referred to Committee on Local Government.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1282

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 36-1-6-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a condition violating an  
3 ordinance of a municipal corporation exists on real property, officers  
4 of the municipal corporation may enter onto that property and take  
5 appropriate action to bring the property into compliance with the  
6 ordinance. However, before action to bring compliance may be taken,  
7 all persons holding a substantial interest in the property must be given  
8 a reasonable opportunity of at least ten (10) days but not more than  
9 sixty (60) days to bring the property into compliance. If the municipal  
10 corporation takes action to bring compliance, the expenses incurred by  
11 the municipal corporation to bring compliance constitute a lien against  
12 the property. **The lien attaches when notice of the lien is recorded in**  
13 **the office of the county recorder in which the property is located.**  
14 The lien is superior to all other liens except liens for taxes, in an  
15 amount that does not exceed:  
16       (1) two thousand five hundred dollars (\$2,500) for real property  
17 that:



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(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ten thousand dollars (\$10,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

~~(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, after thirty (30) days, certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.~~

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including the following:

(A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown on the records of the county auditor.

(C) The amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipality shall notify the person who owned the property at the time the fee

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became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(g) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(h) The county treasurer shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (g).

SECTION 2. IC 36-2-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) This section does not apply to:

(1) an instrument executed before November 4, 1943;

(2) a judgment, order, or writ of a court;

(3) a will or death certificate; or

(4) an instrument executed or acknowledged outside Indiana.

(b) Whenever this section prescribes that the name of a person be printed, typewritten, or stamped immediately beneath ~~his~~ **the person's** signature, the signature must be written on the instrument, directly preceding the printed, typewritten, or stamped name, and may not be superimposed on that name so as to render either illegible. However, the instrument may be received for record if the name and signature are, in the discretion of the county recorder, placed on the instrument so as to render the connection between the two apparent.

(c) The recorder may receive for record an instrument only if:

(1) the name of each person who executed the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the person's** signature or the signature itself is printed, typewritten, or stamped;

(2) the name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the witness's**

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signature or the signature itself is printed, typewritten, or stamped;

(3) the name of each notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the notary's** signature or the signature itself is printed, typewritten, or stamped; and

(4) the name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in ~~his~~ **the person's** signature, and beneath ~~his~~ **the person's** signature;

or if subsection (d) is complied with.

(d) The recorder may receive for record an instrument that does not comply with subsection (c) if:

(1) a printed or typewritten affidavit of a person with personal knowledge of the facts is recorded with the instrument;

(2) the affidavit complies with this section;

(3) the affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section; and

(4) when the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(e) The recorder ~~may~~ **shall** record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

(1) the document complies with other statutory recording requirements; and

(2) the document or copy will produce a clear and unobstructed copy.

All copies accepted for recording shall be marked as copies by the recorder.

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section.

**The copy has the same effect as if the original document had been recorded.**

SECTION 3. IC 36-3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when ~~certified to the auditor of the county.~~ **evidenced on the tax duplicate in the office of the treasurer of the county.**

(b) Liens created when the city enters upon property to make

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1 improvements to bring it into compliance with a city ordinance, and  
2 liens created upon failure to pay charges assessed by the city for  
3 services shall be certified to the auditor, after the adoption of a  
4 resolution confirming the incurred expense by the appropriate city  
5 department, board, or other agency. In addition, the resolution must  
6 state the name of the owner as it appears on the township assessor's  
7 record and a description of the property. ~~These liens are perfected when~~  
8 ~~certified to the auditor.~~

9 (c) The amount of a ~~perfected~~ lien shall be placed on the tax  
10 duplicate by the auditor in the nature of a delinquent tax subject to  
11 enforcement and collection as otherwise provided under IC 6-1.1-22,  
12 IC 6-1.1-24, and IC 6-1.1-25. However, the amount of the lien is not  
13 considered a tax within the meaning of IC 6-1.1-21-2(b) and shall not  
14 be included as a part of either a total county tax levy under  
15 IC 6-1.1-21-2(g) or the tax liability of a taxpayer under IC 6-1.1-21-5  
16 for purposes of the tax credit computations under IC 6-1.1-21-4 and  
17 IC 6-1.1-21-5.

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